

SENATE BILL REPORT

SB 6418

As Reported By Senate Committee On:
Early Learning & K-12 Education, February 07, 2008

Title: An act relating to student discipline policies.

Brief Description: Requiring policies on and limiting the use of mechanical, chemical, and physical restraint of students.

Sponsors: Senators Kauffman, Kohl-Welles, Rasmussen, Delvin, Marr, Fairley, Pflug, Eide, Pridemore, Fraser, Kline, Rockefeller, Regala and Franklin.

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/30/08, 2/7/08 [DPS-WM, DNP].

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 6418 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators McAuliffe, Chair; Tom, Vice Chair; Eide, Hobbs, Kauffman, McDermott, Oemig, Rasmussen and Weinstein.

Minority Report: Do not pass.

Signed by Senators King, Ranking Minority Member; Brandland, Holmquist and Zarelli.

Staff: Kimberly Cushing (786-7421)

Background: Under current Washington law, physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for the purposes of restraining or correcting a child.

Corporal punishment is prohibited in public schools. Corporal punishment is defined as any act that willfully inflicts or willfully causes the infliction of physical pain. Corporal punishment does not include the use of reasonable physical force by a school administrator, teacher, school employee, or volunteer as necessary to maintain order or to prevent a student from harming himself or herself, another student, school staff, or school property.

Each school district board of directors must establish policies regarding student conduct, discipline, and rights and make those policies available to every student, teacher, and parent.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The procedures related to administering discipline must be developed with the participation of parents and the community.

Summary of Bill (Recommended Substitute): The terms "chemical restraint," "mechanical restraint," "school resource officer" (SRO), and "school security officer" (SSO) are defined. A school resource officer is defined as a commissioned law enforcement officer, or person with the equivalent training from the criminal justice training commission but who is not commissioned.

Chemical restraint involves the use of pepper spray or the administration of medication. Mechanical restraint involves the use of a mechanical device, including, but not limited to, metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons. The use of mechanical or chemical restraint is prohibited in public schools with the following exceptions: (1) mechanical or chemical restraint is not prohibited when its use is permitted or required by a student's 504 plan or individual education plan; (2) an individual's right to report a crime committed to the appropriate authorities is not prohibited; or (c) commissioned law enforcement officers, including SROs, and judicial authorities are not prohibited from exercising their authority or executing their responsibilities, including the physical detainment of a student or other person.

The Washington State School Directors' Association (WSSDA) must mediate and facilitate a school disciplinary action task force to review and make recommendations on a model policy regarding the use of physical force in schools. WSSDA must chair the task force. Twelve additional members are appointed to the task force. WSSDA and staff from Senate Committee Services and the House of Representatives Office of Program Research must staff the task force.

The task force must review a representative sampling of discipline policies used in other states and those used by school districts in Washington. At a minimum, the task force shall develop the following recommendations: a description of the authorized methods of physical force, including the types of restraints, who is authorized, and when force or restraint should be used; training requirements for those authorized to use physical force and training recommendations for de-escalation tactics; incident reporting requirements and follow-up procedures, including the timeline and to whom the data should be reported; and procedures for notification to parents or guardians.

The task force must submit a report with recommendations to the education committees of the Legislature by November 2008.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended Substitute): Removes the definition of and limitations on the use of "physical restraint." Removes the requirements that school districts have written policies regarding the use of restraints, report annually to the Office of the Superintendent of Public Instruction, or annually review disciplinary standards. Directs the Washington State School Directors' Association (WSSDA) to mediate and facilitate a school disciplinary action task force to review and make recommendations on a model policy regarding the use of physical force in schools.

Appropriation: None.

Fiscal Note: Requested on January 23, 2008.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Schools need to reexamine their use of handcuffs and force, which create an unwelcoming school environment. While there is a great degree of variability between school districts, in some districts the use of handcuffs is not an isolated incident, but a routine practice. The bill clearly defines the restraints that are or are not prohibited. The school system should be safe, but not to the level of a correction system. In many situations the use of restraint is not necessary. Handcuffing damages the psyche of young people. Disproportionate discipline is a reality in our school district for minority students; uniform discipline policies are necessary. This bill is a great first step to limit abuses and encourage appropriate uses of restraint.

OTHER: Physical restraint needs to be looked at in light of the different ages of students. There is a concern about limiting the staff's ability to protect themselves and students in emergency situations. Training is very important for school staff. We should look to school districts who are doing it right for model policies. The reporting process will take additional resources for schools. SROs should not have to be commissioned.

Persons Testifying: PRO: Senator Kauffman, prime sponsor; Jerry Heber, Northwest Indian Education Consortium; Lucinda Young, WEA; Craig Apperson, OSPI; Robin, Tyrone, and Constance Holloway, parents and student; Jennifer Shaw, American Civil Liberties – Washington; Reverend Jimmie James, Greater Things Ministries; Shankar Narayan, Hate Free Zone; David Westberg, Stationary Operating Engineers.

OTHER: Jason P. Reed, Phoenix Protective; Jerry Bender, Association of Washington School Principals; Barbara Mertens, Washington Association of School Administrators